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A CHAPTER OF CANADIAN HISTORY.

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Canada—by the words of the warm-hearted and eloquent Irish noble, who, under the Sovereign, is her constitutional ruler—is the happiest and most fortunate of countries. Any one, in England or the United States, who read the speech lately made by Earl Dufferin at a dinner given in his honor by the Canada Club, London, must have felt a thrill of surprise at the glowing picture of the young, buoyant, and vigorous New Dominion, so ardent and devoted in its attachment to the mother country, so possessed by an ineradicable conviction of the superiority of her political institutions, so animated by a noble spirit of independence, and of determination to build up a nationality worthy of that parent state, so splendidly endowed with a magnificent and boundless territory, rich in natural resources, and made richer by the industry, skill and enterprise of her sons by nativity and adoption, so free from embarrassments contracted in the past, and so little troubled in the present by party strifes, or by the divisions growing out of differences of race and religion. The reader would probably put down his paper with a feeling of respect for the speaker, and might say to himself, that the Governor-General had certainly made a splendid speech for the occasion, and had drawn a very flattering picture of the condition of Canada; but, if he had at all an intimate knowledge of its past and present history, he might think that the noble earl had spoken out of the enthusiasm of an imaginative nature, and soared above the region of hard fact.

The New Dominion dates from 1867, in which year Upper and Lower Canada, Nova Scotia, and New Brunswick were united in a Confederation under the name of Canada. The chief cause that brought about that union was the proved impossibility of the two Canadas living peacefully together under one government, on account of their being harassed by strifes and jealousies growing out of difference of race and

religion. Since confederation, Canada has encountered difficulties which may be traced to similar troubles, and at the present time the stability of the union is almost shaken, and New Brunswick is embarrassed in carrying out its free-non-sectarian school law—a matter entirely within its jurisdiction—and the influence and authority of the Queen, and Imperial Parliament are being invoked to induce its government and legislatures to yield to the demands of a minority of the people of that province, all on account of a difficulty originating in an embarrassment contracted in the past. The people of that minority are, in a great part, French by extraction, being descendants of the earliest settlers, and Catholics in religion. With the Irish, by birth and descent, and of the same faith, they form about one-third of the whole population of the province, and, together with the French Canadians and Catholic Irish in the other provinces, constitute the minority in the whole Dominion, numbering about a million and a half in a total population of four millions. This minority, as a whole, works together on all questions, especially on those affecting its religious interests.

The embarrassment by which the Dominion has been harassed during the last four years arose from the opposition of the minority of New Brunswick to the Common School Act passed by the Legislature of that province in 1871. This chapter in the history of the new Dominion merits a brief review, both from the importance of the contest to Canada and her imperial mother, and from its affording an additional lesson on the danger that threatens confederations generally from the usurpation of power by the federal authority. For a better understanding of the contest, and in order to show the controlling influence that the French, Canadian, and Catholic element has exercised on the politics of Canada in the past, it will be

necessary to give a brief history of the provinces confederated as far as it bears on the great question.

The religious idea was prominent in the minds of Jacques Cartier, the discoverer of Canada (including Acadie), and of Samuel de Champlain, its founder. Besides the glory of holding vast dominions, the great incentive that caused the French crown to maintain a hold upon provinces whose material resources it always undervalued, and whose government was a constant tax upon its treasury, was the glorious field that they were supposed to afford for proselytism and the spread of the Roman Catholic Faith. That faith gained no computable increase by expansion among the native tribes, for the red man withered away in the presence of the white; but it took root in the soil. In their early desperate struggles, the French settlers in Canada were sustained by the spiritual zeal, and, to some extent, by the means of the Jesuits. For a considerable time—a period of strange enthusiastic pietism—Canada was in the hands of the Fathers, and governors and their councils gave their influence to support the rigid rule of the Church. Obedience to the mandates of priests, strict observance of the rules of the Church, were the sentiment and practice of the colony, especially of Canada, and impressed a character on the French Canadians, who were noted for their simplicity and their piety, and, it may be said, for their superstition and ignorance. Opposition to ecclesiastical rule arose in time. Governors-General, like the old Count Frontenac, brooked with impatience the exalted pretensions of the priests “of the black robe” to domination over the State, and the great dissoluteness of manner broke out amongst the ‘runners of the woods,’ the wild roving fur-traders; the paramount authority of the Church over the settled part of the colony, over the agricultural *habitants*, was never much weakened. The city of Québec, founded by Champlain in 1608, was then, and has since been, the centre of Romish ecclesiastical authority, and on the great province that now bears the name of Quebec, there still rests the impress that the Jesuit fathers gave the infant mind of the colony.

Canada was pre-eminently a Catholic province, not only under the French *regime*, but after its conquest by the British in 1760. By the treaty of Paris (February 10th, 1763), the French in Canada were left to the fullest freedom of worship in the Roman Catholic religion, and to the continued use of their own peculiar code of laws relating to marriage, and to the determin-

ing the conditions of the possession, acquisition and alienation of property, as well as of their own language in all public proceedings. It was thought by some observers of the condition and spirit of the priesthood and the people at that time, that the opportunity was lost to make Canada, that was British by conquest and possession, British also in religion and constitution. There never was a time when Rome was less feared, less in a position or temper of mind to put forward pretensions, or entertain hopes of subjecting the world to her sway, when she met more opposition to her claims of spiritual sovereignty over Catholic countries, (notably in Germany, where she was less jealous in maintaining her hold on the members of her fold) than in the second half of the eighteenth century, a time ever historically memorable for the Seven Years' War that left Protestant England and Prussia the greatest powers in Europe, for the outbreak of the American war, and the outburst of the French revolution. The policy of the British crown towards Canada might unreservedly be called generous, if it were not open to the charge of indifference, and of having been followed without any provision of what Canada might become in the hands of a British people. It was British energy that infused a spirit of independence and of enterprise into Canada, and the French Canadians profited by the influence of their example; but for a long period the British, few in numbers compared with the French Canadians, were discouraged by the crown policy, and hampered by the foreign laws and customs of the province.

Immediately after the conquest, a royal proclamation was issued, promising the introduction of British law and representative institutions into Canada; but, to the intense dissatisfaction of the British settlers, that promise was not fulfilled. The disaffection in the English colonies, from Maine to Georgia, was then ripening into active rebellion. As an intimidation to the spirit of liberty, Canada, with immensely extended boundaries, was erected into the province of Quebec, with an absolute government, and with the Roman Catholic faith recognized as the religion of the State.

The result of the revolutionary war—the declaration of the independence of the United States—was the great era in the history of the western Continent. The republic, having achieved its liberty, commenced its wonderful career of growth, expansion, and material prosperity. Founded on the equality of man as to his political rights—by the letter of its constitution and the spirit of its people opposed to the connection

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of Church and State—allowing perfect freedom of individuals and sects to worship God according to their spiritual insight and the dictates of their conscience—rejecting the claim of any sect to peculiar favor, and especially opposed to the claims of the Church of Rome—that republic was, both in its political constitution and ecclesiastical polity, the diametrical opposite of Canada, where a few British officials, in the spirit of a privileged class, ruled the country with a high hand, and the Catholic hierarchy held spiritual sway over the mass of the inhabitants. But the American revolution had great influence on the future of Canada, for it led to the foundation by the Loyalists in 1784 of the British Province of New Brunswick, detached from Nova Scotia (whose combined territory formed the ancient Acadie), and, a few years later, of that of Upper Canada. From that time the British element made itself more strongly felt, and an impetus was given to commercial and industrial progress.

In 1792, Upper and Lower Canada were divided under separate Governments (a division that was strongly opposed by many as tending to keep alive the distinctions of race, and to arouse commercial jealousies); and, for half a century afterwards, the latter continued to be the leading Province, and to be distinguishably French, although all the highest political positions were held by British officials, and though its commerce was mainly in the hands of British merchants. During this period occurred the struggle for what was called "Responsible Government," which resulted in the breaking down of the small irresponsible oligarchies by an amendment of the constitution, by which the Governments of the Provinces could only hold their position so long as they commanded the confidence of a majority of representatives in the lower branches of their legislature. The contest was very much embittered in Lower Canada by the enmities of race, but not specially by the difference of religions, as religious interests were not then at stake. Of the loyalty of the Catholic priesthood, there was no question. It had stood the test of the stormy times of the American rebellion, the French revolution, and the war of 1812, and the priests had good reason to be convinced that their religion, language, and laws (guaranteed by the Treaty of Paris), were safer under the union-jack than they would be, without guarantee, under the "stars and stripes." In the political contest, therefore, the priests were found generally on the side of the constituted authorities, using their influence to

restrain the deluded French *habitants* from rushing into rebellion under their disloyal leaders.

As a final step to compose the political strife, and to pacify the commercial jealousy of Upper Canada, the two Provinces were, in 1841, united under one Government that recognized the principle of responsibility, and with one Legislature in which each had an equal representation. But it was not until 1849 that responsible Government was really established and frankly accepted by all parties.

After union, the Canadas made great progress in matters of internal reform. Among the first measures passed was a Common School Act for the United Provinces. The difference between the character, sentiments, and views of British Upper Canada and French Lower Canada was displayed especially on the subject of education. The majority of the Upper Provinces was in favor of free non-sectarian schools, under governmental and municipal control; the majority of the Lower Province, or at least the hierarchy that controlled that majority, contended for sectarian schools, under ecclesiastical supervision. In the Upper Province there was a Catholic minority, and in the Lower a Protestant minority, about equal in point of numbers, and entertaining the same views on the common school question as the majorities of their own race and religion. There was continual battle and legislation over the school question for years. The endeavor to unite the Provinces educationally, as they were politically, was frustrated by the influence brought to bear by the hierarchy on the French Canadian and Catholic representatives, who, though in a minority, were, owing to party divisions among the British and Protestant representatives, enabled, to throw their support on the side of the party in power, and thus exercise a control on legislation. As a concession to their "conscientious convictions," the Catholics were permitted to establish separate schools in Upper Canada, while the Protestants in Lower Canada were allowed to maintain dissentient schools. The minorities were thus seemingly on an educational par; but in effect they were not. There was a liberal air in the free non-sectarian system of Upper Canada, and Catholic parents who happened to be of French extraction, and to live in districts where they were unable to maintain separate schools, might really send their children to the public schools without scruple; and felt safe, when paying taxes for their support, that they were not contributing to a system of teaching that interfered either with

their religion or their nationality. But the British minority of Lower Canada lived in a close atmosphere, among a people alien in feeling, language, and habits, in the presence of a school system under the rule of the clergy of a dominant Church, and which they felt was not calculated to foster a healthy British-national spirit. They were called upon to support schools of which they could not approve, and in all educational matters felt the pressure of the prevailing ecclesiastical rule.

By the end of the first decade of the union, Upper Canada had outstripped Lower. In the first-named province, where impatience at French-Canadian influence was strongly felt, a movement was commenced for representation according to population. The French Canadians, fearful that their power would be weakened, and their peculiar institutions endangered, if the British Protestant element became predominant, defended their position in the Legislature with great tenacity. The sectional strife produced such bitter feeling, and such frequent ministerial crisis, as to make government almost impossible. At length, in 1864, the leading men of all parties stopped to consider seriously the position. A proposal was made to substitute a federal, instead of a legislative union; but, favorable circumstances occurring, a scheme to confederate all the British North American Provinces was proposed, and the "Quebec Scheme"—so called from the city where the provincial delegates met—was drawn up in the October of that year. Many in the British and Protestant provinces of Upper Canada (now Ontario), Nova Scotia, and New Brunswick, would have preferred a legislative union, but Lower Canada (now Quebec) stood in the way. Her leaders would have nothing but a federal union which should give to the local Legislature, where the French and Catholic element would be all predominant, the guardianship of her peculiar institutions. In a legislative union the trouble under which the Dominion now labors could hardly have occurred; yet it is Lower Canada, which was so jealous of her own rights and independence, that fomented it. The Quebec Scheme was modified in some particulars, but it formed the ground-work of the "British North America Act" passed by the Imperial Parliament in 1867, which is now the constitution of the confederated provinces. Certain specified powers were entrusted to the "general" and "local" legislatures. To the latter bodies, for instance, was especially reserved, by the 93rd Clause, the exclusive right to make laws relating to education, with a general reservation that

nothing in such laws should prejudicially affect the right that any class of persons might have by law in the provinces at the time of union with respect to denominational schools. Further during the time that confederation was being discussed, the British minority of Lower Canada, who had vainly pleaded for a quarter of a century for the establishment of public non-sectarian schools, urged that it should not take place unless they were guaranteed rights with respect to such schools. As under confederation Upper Canada would have independent power to make laws relating to education, and might revoke its separate school system, ecclesiastical influence was brought to bear to prevent such action, and to fix in perpetuity the separate and dissentient schools in the two provinces; and certain special exceptions were accordingly appended to the Clause already mentioned, enacting that the rights possessed by the Roman Catholic minority of Upper Canada at the time of the union, with respect to separate schools should be extended to the minorities of Quebec, and giving the minorities remedy from any Act of the Provincial Legislatures affecting those rights.

A confederation of all the British North American Provinces had, at several crises in the history of the Canadas, been put forth as a means not only of promoting their general prosperity, but of increasing the power of the British Protestant element, and lessening French Canadian Catholic influence, and of getting rid of the embarrassments caused by sectional jealousies. Confederation, it was hoped, would give the Provinces united something like a national status. Events, however, have occurred since 1871, which appear to show that Confederation has not answered the expectations of its most sanguine supporters. The influence of the hierarchy of Lower Canada over the Legislature of the United Canadas on all matters affecting religion and education has been felt as directly in the Parliament of the Dominion; and many of the representatives of British Ontario find themselves now fettered in their action by engagements contracted through that influence in the past, and are committed to pursue an unconstitutional course.

In the eighty years since its foundation in 1784, New Brunswick had shown itself to be the most peaceful and loyal of all the Provinces. It had been agitated, indeed, by a political contest similar to that which had convulsed the Canadas, but without evincing either a rancorous or rebellious spirit, and its politics had been little

embittered by sectarian strife or "religious" animosities. Its Legislature had always given much attention to the subject of education, and had liberally provided means to promote it, but with only partial good results. In conjunction with legislative aid—direct taxation on the property of the country (so levied and apportioned as best to call forth the liberality of the people of the parishes to supplement the amount so raised) had long been advocated as the efficient motive power that would infuse life and vigor into the common school system, and as the most just way to support it; and before 1867 the other British Provinces had adopted the principle. A few years after Confederation the Local Government of New Brunswick grappled with a question which their predecessors had always been very chary of touching. In 1871 a Common Schools Act was passed, repealing all then existing School Acts, making assessment compulsory, and enacting that all schools to be entitled to legislative aid under its provisions must be non-sectarian. The Act did not interfere with the right of any class of persons of any denomination to maintain, outside the common school system, schools in which distinctive religious doctrines might be taught; nor could it take away the right of the Legislature to grant public money in aid of their support. But its immediate effect was to deprive the schools, seminaries and academies of the Episcopal, Catholic, Presbyterian, Methodist and Baptist bodies of the legislative grants which they had enjoyed before its passing. The clergy and laity of the Catholic minority felt aggrieved. They claimed that under the Parish School Act (which had been repealed) they possessed the privilege of maintaining schools of a denominational character, to which legislative aid was granted, and that their rights were protected by the exceptions of the 93rd clause of the British North American Act, 1867. As the Common School Act was not to come into operation until January 1st, 1872, and as the constitution gave the Governor General authority to disallow Acts of the Local Legislatures within a year after their passing, they immediately petitioned the Privy Council of Canada to advise the Governor General to exercise his prerogative.

Sir John A. Macdonald, Minister of Justice, replied to the petitions, reporting that the Legislature of New Brunswick had acted entirely within its jurisdiction in passing the Common Schools Act, 1871; that it had sole power to redress any grievance under it, and to give or withhold public moneys in support of schools; that no separate or dissentient

schools, coming under the protecting clauses of the British North America Act, were sanctioned by any law of the Legislature of New Brunswick; and that, therefore, the Governor-General had no right to intervene, and the Act must go into operation.

This opinion, putting so strong a bar against the pretensions of the minority, and coming from so high a constitutional authority as Sir John A. Macdonald, who could not be accused of hostility to the Catholics, as he had always advocated separate schools, was of great weight, and entitled to be received with deference.

To introduce so embarrassing a question as this School Act into a body like the House of Commons of Canada was the surest way of awakening sectional strifes and "religious animosities" to compose which confederation had been entered upon, and of making the people of New Brunswick regret that they had given up their constitutional independence for embarrassments of which they had so little experience in the past. But this was the course that the minority was determined to pursue, counting on the sympathy of their co-religionists throughout the Dominion, and on the support of many of the representatives of British Ontario.

The Dominion Parliament met in April, 1872, before the expiration of the year within which the school law (which had been in operation in New Brunswick for five months) might be disallowed. Mr. Costigan, Representative of Victoria County, New Brunswick, a mixed constituency in which the French Catholic element is predominant, attacked the law on the grounds set forth in the minority petitions, and called on the Governor-General to disallow it. The right course for the Government, that was bound by the opinion of the Minister of Justice, and of all upholders of the constitution, would have been to vote the question out by a direct resolution, expressing the opinion that the Parliament of Canada had no right to interfere. What they did was to oppose the disallowance motion. If they were not disposed for thorough action, the leaders of the minority, at any rate, were prepared to go all lengths. M. Chauveau, Representative of Quebec County, assuming that the framers of the British North America Act must have intended to protect such rights as were claimed by the minority of New Brunswick, moved a resolution for an address praying the Queen to cause an Act to be passed amending the British North America Act in the sense which the House believed to have been intended at the time of its passing, by providing that each religious denomination in the Province should

continue to possess all such rights, advantages, and privileges, with regard to its schools, as it had enjoyed at the time of the passing of the Act.

On learning the purport of the Chaveau resolution, the Government of New Brunswick very promptly transmitted, on the 29th of May, by telegraph, to the Privy Council of Canada, a very earnest and forcible protest against this attempt to overthrow the school legislation, and to destroy the powers and independence of the Provincial Legislatures. Desirous of preserving the union, the Government declared that they could not refrain from drawing the attention of the Government and Parliament of Canada to the alarming character and consequences of that resolution.

"Those consequences far outweigh the importance of the particular subject involved. The assumption by the Government and Parliament of Canada, of the right to seek the imposition of further limitations of the powers of the Provincial Legislatures, is subversive of the federal character of the union, tending to the destruction of the powers and independence of the Provincial Legislatures, and to the centralization of all power in the Parliament of Canada. The people of New Brunswick cannot and will not so surrender their rights of self-government within the limits of the constitution, and with regard to the passage of such resolutions as an infringement of the constitution by those whose duty and interest should lead them to uphold the rights of the Provinces, while maintaining powers of the General Government. The executive council in committee, therefore, hasten to warn the Government and Parliament of Canada of the danger involved in the passage of such resolution, which if passed, whatever its effect upon the cause of Imperial legislation, must stand as a precedent of innovation of provincial rights fruitful of evil; and in the name of the people of New Brunswick, and invoking the protection of the constitution, the executive council in committee protest against the passage of such resolution, and emphatically assert the right of the Legislature of New Brunswick to legislate upon all questions affecting the education of the country, free from interference by the Parliament of Canada."

On the evening of the same day the Chaveau resolution was voted down in the Parliament of Canada, 128 nays, 34 yeas. But a resolution, moved by Mr. Colby, (Quebec), was afterward carried, 117 yeas, 42 nays, expressing regret

that the school law of New Brunswick was unsatisfactory to a portion of the inhabitants, and a hope that it might be so modified during the next session of the Legislature as to remove any just ground of discontent, and a rider was appended, on the motion of Hon. Alexander McKenzie (Lambton, Ontario), referring the case to the Law Officers of the Crown, and if possible to the Judicial Committee of the Privy Council, England, for their opinion, in order to ascertain whether it came within the terms of the exceptions to the 93rd clause of the British North America Act.

During the autumn and the winter of 1872 Earl Dufferin, Governor General, transmitted to Earl Kimberley, Colonial Secretary, documents on the School-law case, and the arguments of the Government of New Brunswick, and of the counsel of the Catholic Bishop of St. John, New Brunswick, thereon. These were severally submitted to the Law Officers of the Crown, whose opinion substantially sustained the position taken at the first by Sir John A. Macdonald. Early in the spring of 1873, this opinion was corroborated by the judgment of the Supreme Court, New Brunswick, in the case of parties who contested the legality of an assessment on the ground that it included a sum for the support of schools levied under authority of the Common Schools Act, which they held was unconstitutional. Thus by the highest legal authorities the constitutional right of the Legislature of New Brunswick to pass the School-law was amply vindicated; still the supreme tribunal had not given judgment, for the Privy Council intimated that it could not then take cognizance of the case, though it might, at some future time, be brought before the Judicial Committee on appeal from Canadian Courts of Justice. There was no danger of an opportunity not occurring.

It may be here remarked that the School-law, when it received anything like fair play, had been proved to be a most beneficial measure. Within a short period after the commencement of its working, the number of pupils attending school had largely increased, many fine new school-houses, fitted with all educational requirements, had been constructed, and generally through the untiring energy of the central administration, a vigor not before known had been infused throughout the common school system. Owing partly to local jealousies, partly to opposition raised in some quarters to the legality of the school-assessment, the Board of Education and the chief superintendent had

many difficulties in inducing the people of some of the districts to work it out in good faith. During the session of the Local Legislature that terminated early in April, 1873, laws were passed legalising assessments that had been entered, and providing a remedy in cases where they should again be contested in the Courts; also a law amending the School Act so as to increase the power of the central control vested in the Board of Education over the trustees and districts, to determine more precisely the time and the mode of levying, collecting, and apportioning the county funds and district assessments.

During the summer and autumn of 1872, a general election had taken place in the Dominion, and the contest between the two political parties, the Conservatives and the Liberals, or Grits, had been very bitter in Ontario and Quebec. The extraordinary steps taken by the leaders of the government to carry it were afterwards brought to light, and raised the notorious "Pacific Scandal" which cost it power, place, and prestige. At the polls, especially in Quebec, the New Brunswick School-law was made a test question, and the result of the election there was to increase and concentrate the hostility of the French and Catholic representatives against it. Two months after the meeting of the first session of Parliament, a determined, though indirect attack was made on the School-law, and a resolution was thrown on the House, which, after reciting the arguments of the opponents of the law, and the action taken in 1872, set forth that the parties aggrieved should have an opportunity of bringing the matter judicially before the Privy Council, and that in the meantime it was the duty of the government to advise the Governor General to disallow the acts (already mentioned) just passed by the Legislature of New Brunswick.

On this occasion, Sir John A. Macdonald, sympathising with the minority, made a forcible defence of the constitution. When a matter—he argued in effect—which was within the sole competence of a Provincial Legislature was brought up in Parliament, the only question with the House should be that it was one with which it had no right to interfere. The very discussion of it was an insult to Provincial Legislatures. If Parliament could over-ride local legislation on the school question, if it presumed to decide that local laws could not be passed, amended, or modified to meet the wants of the people, it might interfere with every other matter left to the jurisdiction of the Provincial Legislatures.

The powers of these bodies in the constitution might as well be written on a slate, and be wiped out at pleasure with a wet sponge, if Parliament could reduce their acts to a nullity; if it could centralize all authority in itself, all confidence would be destroyed, and the Federal system of government be broken down; the union itself would come to an end if the Provincial Legislatures had no assurance that in legislating on subjects within their jurisdiction they were legislating in reality; if they found that they had only a sham power, and their acts no force unless by the will of Parliament. The resolution that had been moved was not only in violation of the Federal constitution, but it counselled an unwarrantable invasion of the royal prerogative. By the British North America Act the Queen might within two years, exercise the prerogative of disallowing any act of the Federal Parliament, and the Governor-General, who was now the only direct representative of the sovereign, might within one year disallow bills of the Local Legislatures. If the House passed the resolution it would be in effect dictating to the Governor-General that he should not wait until the year was expired, but disallow the bills in question at once. Even if the resolution was carried it would be a dead letter. As the bills had been passed by a sufficient majority of the Legislature of New Brunswick acting entirely within its jurisdiction, and as there had been no appeal by the people against their acts, they did not come under the conditions that warranted the exercise of the prerogative.

The resolution was carried by the majority of 35 votes—yeas, 98, nays, 63—Hon. Alexander Mackenzie and Hon. E. Blake (South Bruce, Ontario), the leading members of the present administration, voting with the majority. Before the close of the session, the Premier being questioned as to the action taken on it, informed the House that the Governor-General felt it, in this case, to be his duty to apply to the Home Government for further instructions; but he assured the House that the Government would undertake to have the question of the School-law brought under the consideration of the Privy Council of England.

It was surely a fortunate thing for the new Dominion that in this matter the ultimate authority is in the hands of the Imperial Parliament; for if Canada had been an independent country, if the Governor General had been an officer elected by the people, and if the Parliament had insisted on having its wishes carried out, the break-up of the union or the outburst of

a revolution could hardly have been prevented. The mover of the resolution threatened the Government with a vote of want of confidence, but he was constrained or persuaded to allow that matter to drop. A French member afterwards twitted him by saying that it was much to be regretted that after having had victory in his hands he did not know how to profit by it. If the Frenchman only meant that the vote would have been carried, it is possibly true. The Government, however, was soon enough put on its trial; and for the remainder of the year the whole Dominion was agitated by the developments of the Pacific Scandal, by the resignation of the Macdonald and the formation of the Mackenzie administrations, and by another general election—and during the excitement the constitutional contest over the New Brunswick School-law was almost forgotten.

The Catholic minority had some grounds for hoping that their position would be stronger under the Mackenzie administration as the leaders of that administration had, when in opposition given it active encouragement. But the possession and responsibility of power have generally a restraining effect. During the session of the new parliament that met March, 1874, the School-law question was raised, but there was no contest over it. Five thousand dollars were voted to defray the expenses of appeal in England; to aid, in fact, the Catholic Bishop of St. John, New Brunswick, to contest the constitutionality of the School Act—a pretty practical proof, at least, of sympathy.

The contest over the School-law has a religious as well as a political aspect. It is matter of fact that it has been synchronous with the great conflict in the German Empire between the State and the Papacy, which has had a disturbing effect on the political action of countries like Canada, where the population is mixed Catholic and Protestant; and, as its world-wide significance became more and more apparent, it has been watched, both in America and in Europe, with keen and keener interest. In Canada, the ecclesiastical authorities whose local central seat is the ancient Quebec, the City of Champlain and the Jesuit Fathers, are animated by the spirit that has gone forth from Ultramontane Rome, and their zeal, since the promulgation of the Syllabus and the Vatican decrees, has been increased in denouncing mixed and common schools as dangerous to faith and morals, in upholding the necessity of ecclesiastical authority, government, and interference in

education, and in insisting upon the removal of all restrictions upon religious instruction that may enter into the course of daily secular education.

In New Brunswick, while the continued onslaughts of the Parliament of Canada on the independence of the Local Legislature were calculated to inflame the majority of the people, the attitude assumed by the hierarchy of the Dominion towards the School-law tended to cause a feeling of repulsion to anything like Ultramontane dictation, a feeling which was strengthened by the very violent spirit in which the chief Catholic organ advocated the claims of the minority and reviled the Government who introduced the School-law, the Legislature who carried it, and the people who supported both. In the summer of 1874 the people of New Brunswick had an opportunity to express their feelings and sentiments on the question. A general election for the Local Legislature took place in June. The result was remarkable, and plainly showed the determination of the majority to uphold the law and the Government administering it. Not an opponent of the government or the law was returned, even from large counties, where the opposition to both had been strong. Out of forty-one representatives only five were elected in the interests of the minority, and of the whole number a large proportion were new men.

While New Brunswick was still under the excitement of the election contest, the final steps to test the constitutionality of the School Act were taken. The action of the Federal Parliament in giving money to aid the advisers of the minority to argue their case by appeal, threw on the Local Legislature the necessity of voting means to defray the charges of defence. The Hon. George E. King, Attorney-General, and leader of the Government, who had taken the foremost part in framing and carrying through the School-law, proceeded to London in the interest of the province. On the 17th of July the question was argued before the Judicial Lords of the Privy Council—the Right Honorables Sir J. W. Colville, Lord Justice Mellish, Lord Justice James, Sir Montague Smith, and Sir Robert P. Collier—in the case of an appeal from an adverse judgment of the Supreme Court of New Brunswick by a ratepayer of Portland, St. John, who objected to the assessment for school purposes made on the town, on the ground that the School Act, under authority of which it had been ordered, was void. The counsel of the appellant was kept strictly to the short point at issue, whether the general exception to the 93rd

Clause of the British North American Act protecting any rights or privileges with respect to denominational schools which any class of persons might have had by law in the province applied to schools—conducted under the Parish School Act of 1858, which was repealed by the Act of 1871. The arguments advanced by the counsel of the appellant (who⁹ was, as it were, the stalking-horse of the minority) were deemed so conclusive against his case, that the counsel of the New Brunswick Government was not called on to argue in defence. Their Lordships ruled that there was nothing in the ground taken on which to found a claim with respect to denominational schools, nor anything unconstitutional in the School Act, and dismissed the appeal with costs. The minority was thus driven from its last refuge.

Some circumstances tended to raise a rather bad state of feeling in New Brunswick. Individuals of the minority refused to pay the school taxes, and the authorities—principally in the city of St. John—were placed under the disagreeable necessity of compelling them, by causing some of their effects to be seized and publicly sold. A most unfortunate incident occurred during the last winter. The people of Gloucester—the majority of whom are French, and for the greater part under the rule of priests thoroughly imbued with Ultramontane ideas—have all along been bitterly opposed to the school law. They are, moreover, represented in the Dominion Parliament by one of its most violent and able opponents, who is now Speaker of the House of Commons, and the editor of a paper in the Catholic interest, which, circulating freely in the country, tends to excite a feeling of active hostility. Some ratepayers of the district of Caraquet met in the school house to vote money for school purposes. A party of French men from the surrounding country broke up the meeting in a violent manner, and took possession of the building. They afterwards behaved themselves riotously in the settlement, compelling certain persons to sign a document pledging themselves not to vote for assessment; they breathed out fire and slaughter generally against prominent supporters of the law, and besieged a member of the Local Government in his house, drawing off quickly, however, when they found that they were threatened with a hot reception. A party of militia from the neighboring county of Northumberland was brought by the Sheriff to quell the riot. On forcing a way into the house where some of the rioters were lodged, one of the militia

men was shot dead, and a Frenchman shared the same fate. The ringleaders were captured and imprisoned, and are now awaiting trial.

The leaders of the minority were now debarr'd from again demanding a judicial hearing. The door of appeal was closed against their case. They no longer had an excuse for entertaining the delusion that they had constitutional ground on which to found a claim for educational rights and privileges; since, in consent, the Minister of Justice, the Supreme Court of New Brunswick, the law officers had pronounced against them. Still, from the altar and the press, their spiritual and political advisers decreed that, being denied constitutional redress, they must resort to agitation. The Catholic minority of the Dominion was, in spirit and in mind, the same minority that had from 1841 to 1867 exercised, especially on educational matters, a controlling influence on the Legislature of the United Canadas; and it had little cause to think that that influence was weakened in the Parliament of the Confederation, or that its combined votes were not as necessary for the support of a Ministry, or that its opposition was not as much to be feared as formerly. The leaders would still continue to press its demands on Parliament, and hope to weary or worry it into acquiescence, and they could look above and beyond to the Parliament of Great Britain. Some of the more reckless and impulsive of the minority even hinted that physical force might be necessary to enforce the granting of their claims, and dark intimations were not wanting that the Catholics of the Dominion would receive sympathy and succor from their co-religionists over the line. Such threats might not have been seriously made—certainly they were seriously listened to.

When Parliament met this year (1875), the intense interest displayed in its proceedings by all orders of the clergy of the minority, when the school-law question was again brought up, was very noticeable. Men in the clerical garb crowded the lobbies, and they could not have been more anxious and more in earnest had their solicitude reached to the spiritual welfare of the legislators instead of to their votes. It was a visible proof that the clergy as a body were determined to act on the policy indicated by one of their then pronounced supporters; that the minority would besiege every Government and every Parliament until "justice" was meted out to it. "Justice," in their view, now, meant that the minority of New Brunswick should have, by law, similar rights to those possessed by the minorities in Ontario and Quebec,

and that the British North America Act should be amended by the Imperial Parliament to bring about that result. A political party loses its memory when its passions are aroused and its immediate interests are concerned. The great constitutional conflict, the result of which bestowed on the people of the Provinces, through their representatives in the Legislature the right of self-government, free from the interference of the Imperial Parliament in their local concerns, had been to a great extent excited by that interference; and now, the minority, which certainly had profited as much by the "boon" of responsible government as the majority, were eager to invite that interference, which, if forced upon it, would arouse the wildest indignation. The Imperial Government had encouraged Confederation with the view of placing the Provinces in a more independent position, and getting rid more completely of the necessity of interfering in their local matters; the course taken since Confederation by the Imperial Government has shown an unwillingness to interfere in local matters, or questions affecting the rights of the Provinces guarded by the constitution, and it is extremely unlikely that they will ever be induced to propose to the Imperial Parliament to amend the Act of the constitution, especially in provisions essential to the independence of the Local Legislatures, without the consent of the Provinces interested.

The Dominion Government was placed in rather an embarrassing position; its leading members had, when in opposition, encouraged the minority in pressing their demands; but now, instead of being the heads of an assaulting party, they were in the place of defenders of the constitution. They could now see clearly the danger of allowing attacks to be made upon it; and though their sympathy for the minority might be patriotic and not political, they could not as guardians of the union join in any action that would endanger it. If they could not vanquish the difficulty openly, they could go round it. They could openly oppose any attempt to encroach upon the powers of the Local Legislatures, and still give the minority sympathy and support. They might induce members to pledge themselves not to vote for any resolution that incited Imperial Legislation, by recommending a course of action, that without any seeming violence, might bring about the result desired. Notice of a resolution was given by the Hon. Edward Blake (the foremost man of the liberal party, and all through the contest a strong supporter of the minority demands) regretting that the hope expressed by Parliament in 1872 had

not been realized, and moving for an address to the Queen, praying that Her Majesty would be graciously pleased to use Her influence with the Legislature of New Brunswick to procure such a modification of the School Act as would remove any just grounds of discontent.

The Premier, the Hon. Alexander Mackenzie, in his place in Parliament, invited the House to consent to the proposition that Imperial legislation encroaching on any of the powers reserved to the Provinces would violate their constitution, and that to incite it would endanger their right of self-government, and the House did by a large majority consent, and did also by a similar large majority agree to the further proposition that the Blake resolution, which was proposed by the Hon. J. E. Cauchon (Quebec centre) should be added thereto, and that both should be embodied in an address to the Queen.

The course taken had the effect of raising a sort of misunderstanding amongst the representatives of the minority. One of the leaders of the Irish Roman Catholic party, who had made himself specially prominent in declaiming that the minority would besiege every government and every parliament until justice was meted out to it, voted with the large majority, declaring that he did so with the knowledge and consent of the Catholic Bishop of St. John New Brunswick. The statement was denied by extremists, who opposed the royal address, praying for the exercise of Her Majesty's influence, as a step, which would in its issue lead to no practical or satisfactory result, and merely postponed the difficulty which would return next year upon Parliament with more perplexing force than ever.

By inviting the Royal influence, the Dominion Government, no doubt, hope that such a pressure will be brought to bear on the Legislature of New Brunswick as to induce it to yield to the demands made by the minority, and thus relieve them from their embarrassment.

So the question stands for the present awaiting Imperial action on the Royal Address. The Government of New Brunswick, backed by an overwhelming majority in the Legislature, has not receded from the position taken in the protest of the 29th May, 1872; it rests on constitutional ground. Though on that ground the Government has been supported, it has received little sympathy from the political leaders and representatives of the Dominion at large. The Parliament of Canada is seemingly governed by the traditions of the past; that it is still under the influence of the minority that has done so much to shape the course of history in the past,

a significant action has shown. During the last session the Government carried through Parliament a measure erecting the North West Territory into a separate Government, with the responsibility of settling the primary institutions—(not of one Province only, but of the several Provinces that may in the future be carved out of that vast region)—under which, as the Hon. Edward Blake observed, "we hope to see hundreds of thousands—and the more sanguine among us millions—of men and families settled and flourishing." A special provision was inserted in the clause of the constitution relating to education determining in perpetuity that the minorities, Catholic and Protestant, shall have the right to establish separate schools and this was done with the avowed intention of letting people, who might emigrate thither, know what they might expect, and with special reference to the trouble in New Brunswick. But the same section of the British North

America Act, which grants to the Legislature of New Brunswick the exclusive right to make laws in reference to education, grants in no less degree like powers to the Legislatures of all future Provinces throughout the Dominion. This action of the Parliament of Canada is obviously *ultra vires*, since it seeks to abridge powers conferred by the Imperial Parliament.

From this sketch of a trouble which has, during the term of Earl Dufferin's rule, arisen in Canada, it may be inferred that "the epoch" has not been so halcyonian as the glowing description drawn by His Excellency would lead one to imagine; but it is to be hoped that the position of affairs is still not of such gravity as to be beyond the political wisdom, experience and ability which, we are assured, have grown with the growth of wealth and happiness within the New Dominion.

September, 1875.